

REMARKS

Claims 1-28 and 31-43 remain pending. Favorable reconsideration is respectfully requested.

Applicants would like to thank Examiner Hanor for the helpful and courteous discussion held with their representative on March 31, 2009. During the discussion, the Examiner indicated that the application would likely be allowed upon the submission of a Declaration demonstrating that the cited reference Mangold et al. fails to disclose a pyrogenic silicon dioxide powder as claimed. The following remarks expand on the discussion with the Examiner.

The present invention relates to a pyrogenic silicon dioxide powder with

- a BET surface area of 30 to 90 m²/g,
- a DBP index of 80 or less
- a mean aggregate area of less than 25000 nm²,
- a mean aggregate circumference of less than 1000 nm,

where at least 70% of the aggregates have a circumference of less than 1300 nm.

See Claim 1.

The rejection of the claims under 35 U.S.C. §102(b) or §103(a) over Mangold et al. (EP '410) in view of Mangold et al. (U.S. '354), Mangold et al. (EP '964) and Scharfe et al. (U.S. '493) is respectfully traversed. The cited references fail to disclose or suggest the claimed pyrogenic silicon dioxide powder.

As recognized by the Office, Mangold et al. (EP '410) fails to disclose the mean aggregate of the powder or the mean aggregate circumference of the powder. See the Office Action at pages 7 and 8.

As described in the Rule 132 Declaration submitted herewith, Example 2 of Mangold et al. (EP '410) was repeated using the parameters exactly as reported therein.¹ The resulting powder was imaged. The powder had the following properties:

- (1) a mean aggregate area of 46441 nm².
- (2) a mean aggregate circumference of 2119 nm.
- (3) less than 50% of the aggregates have a circumference of less than 1300 nm.

As shown in the Declaration, the physical properties of the material prepared according to Example 2 has properties which are outside of the ranges specified in Claim 1 of the present application. Accordingly, the Declaration demonstrates that Mangold et al. (EP '410) fails to disclose the claimed pyrogenic silicon dioxide powder.

Since Mangold et al. (EP '410) are silent with respect to physical properties of the material and the Declaration shows that the material prepared therein is not within the scope of the claimed invention, as discussed above, the reference certainly fails to suggest a pyrogenic silicon dioxide powder having the properties recited in Claim 1.

The other references have been cited with respect to dependent claims. None of the remaining references remedy the deficiencies of Mangold (EP '410) discussed above.

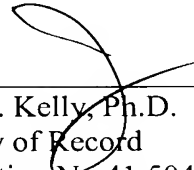
In view of the foregoing, the claimed pyrogenic silicon dioxide powder is not anticipated by or obvious over Mangold et al. (EP '410) alone or in combination with Mangold et al. (U.S. '354), Mangold et al. (EP '964) and Scharfe et al. (U.S. '493). Accordingly Withdrawal of this ground of rejection is respectfully requested.

¹ The Declaration is submitted in unexecuted form. The executed Declaration will be submitted shortly.

Applicants submit that the present application is in condition for allowance. Early notice to this effect is earnestly solicited.

Respectfully submitted,

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A handwritten signature in black ink, appearing to be 'James J. Kelly', is written over a horizontal line.

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